

Message Text

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44-L

ACTION ACDA-10

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P 081615Z JUL 76

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 1031

INFO AMEMBASSY LONDON PRIORITY

C O N F I D E N T I A L SECTION 1 OF 3 GENEVA 5395

PASS TO ACDA (DON BLACK) FROM MIKULAK

REF: (A) STATE 147188

(B) STATE 160354

1. UK DELOFFS HAVE PROVIDED SECOND DRAFT OF PROPOSED UK
CONVENTION ON CHEMICAL WEAPONS. US-UK CONSULTATIONS ON
DRAFT BEING REPORTED SEPTEL ALONG WITH OUR VIEWS ON DRAFT.
TEXT RPTD BELOW. QUOTE

DRAFT CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION
AND STOCKPIILING OF CHEMICAL SEAPONS AND ON THEIR DESTRUCTION

THE STATES PARTIES TO THIS CONVENTION

AGREEING THAT THE EXISTENCE OF CHEMICAL WEAPONS REPRESENTS A
THREAT TO MANKIND, AND THAT CHEMICAL DISCOVERIES SHOULD BE USED
ONLY FOR THE BENEFIT OF HUMANITY,
CONCERNED THAT ADVANCES IN SCIENCE AND TECHNOLOGY MAY LEAD TO
THE DEVELOPMENT OF NEW GENERATIONS OF CHEMICAL WEAPONS,
CONVINCED THAT THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION
AND STOCKPIILING OF CHEMICAL WEAPONS AND THEIR ELIMINATION, THROUGH
EFFECTIVE MEASURES, IS A NECESSARY STEP TOWARDS THE ACHIEVEMENT
OF GENERAL AND COMPLETE DISARMAMENT UNDER STRICT AND EFFECTIVE
INTERNATIONAL CONTROL,
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RECOGNIZING THE IMPORTANT SIGNIFICANCE OF THE GENEVA PROTOCOL OF
17 JUNE 1925 FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIA-
TING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF
WARFARE, AND CONSCIOUS OF THE CONTRIBUTION WHICH THE SAID

PROTOCOL HAS ALREADY MADE, AND CONTINUES TO MAKE, TO MITIGATING THE HORRORS OF WAR,
REAFFIRMING THEIR ADHERENCE TO THE PRINCIPLES AND OBJECTIVES OF THAT PROTOCOL AND CALLING UPON ALL STATES TO COMPLY STRICTLY WITH THEM,
RECALLING THAT EACH STATE PARTY TO THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS AND ON THEIR DESTRUCTION, IN ARTICLE IX OF THAT CONVENTION, AFFIRMED THE RECOGNIZED OBJECTIVES OF EFFECTIVE PROHIBITION OF CHEMICAL WEAPONS AND, TO THIS END, UNDERTOOK TO CONTINUE NEGOTIATIONS IN GOOD FAITH WITH A VIEW TO REACHING EARLY AGREEMENT ON EFFECTIVE MEASURES FOR THE PROHIBITION OF THEIR DEVELOPMENT, PRODUCTION AND STOCKPILING AND FOR THEIR DESTRUCTION, AND ON APPROPRIATE MEASURES CONCERNING EQUIPMENT AND MEANS OF DELIVERY SPECIFICALLY DESIGNED FOR THE PRODUCTION OR USE OF CHEMICAL WEAPON AGENTS,
DESIRING TO CONTRIBUTE TO THE STRENGTHENING OF CONFIDENCE BETWEEN PEOPLES AND THE GENERAL IMPROVEMENT OF THE INTERNATIONAL ATMOSPHERE,
HAVE AGREED AS FOLLOWS: ARTICLE I

EACH STATE PARTY TO THIS CONVENTION UNDERTAKES NEVER, IN ANY CIRCUMSTANCES, TO DEVELOP, PRODUCE, STOCKPILE OR OTHERWISE ACQUIRE, RETAIN OR USE.

(1) LETHAL CHEMICAL AGENTS AND TOXIC CHEMICAL AGENTS LIABLE TO CAUSE PERMANENT PHYSIOLOGICAL HARM TO HUMAN BEINGS, HAVING NO JUSTIFICATION FOR PEACEFUL PURPOSES;

(2) WEAPONS, EQUIPMENT OR MEANS OF DELIVERY SPECIFICALLY DESIGNED TO USE SUCH AGENTS FOR HOSTILE PURPOSES OR IN ARMED CONFLICT.

(COMMENT: I (2) REPEATS THE WORDING IN ARTICLE I OF THE BW CONVENTION. HOWEVER MOST IF NOT ALL DELIVERY SYSTEMS FOR CW CAN BE USED FOR OTHER TYPES OF WARHEADS, SECTION (2) MIGHT BE DELETED AS AN UNNECESSARY COMPLICATION).

ARTICLE II

1. NOTWITHSTANDING THE PROVISIONS OF ARTICLE XIII, EACH
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SIGNATORY OR ACCEDING STATE UNDERTAKES ON SIGNATURE OR ACCESSION TO THIS CONVENTION, WHETHER OR NOT IT HAS ENTERED INTO FORCE:

- A. TO DECLARE WHETHER OR NOT IT IS IN POSSESSION OF THE AGENTS, WEAPONS, EQUIPMENT AND MEANS OF DELIVERY SPECIFIED IN ARTICLE I;
- B. TO SUPPLY INFORMATION REGARDING ALL PRODUCTION FACILITIES ON ITS TERRITORY CAPABLE OF PRODUCING THE AGENTS, WEAPONS, EQUIPMENT AND DELIVERY SYSTEMS SPECIFIED IN ARTICLE I AND TO CLOSE DOWN, DISMANTLE OR CONVERT SUCH FACILITIES TO PEACEFUL PURPOSES, AND NOT TO CONVERT THEM FROM PRODUCTION FOR PEACEFUL USE TO PRODUCTION OF CHEMICAL AGENTS FOR OFFENSIVE PURPOSES.
- C. TO SUPPLY INFORMATION ABOUT THE TYPE AND QUANTITY OF THE AGENTS SPECIFIED IN ARTICLE I IN ITS POSSESSION;

D. TO (PUBLISH) SUPPLY INFORMATION ABOUT THE QUANTITY OF THE AGENTS SPECIFIED IN ARTICLE I WHICH IT PRODUCES FOR PEACEFUL PURPOSES (OR FOR DEFENSIVE TRAINING,) AND THE LOCATION OF THE FACTORIES PRODUCING THESE AGENTS AND THEREAFTER TO RENDER AN ANNUAL RETURN OF SIMILAR INFORMATION;

E. TO SUPPLY INFORMATION AS TO WHICH NATIONAL ORGANISATION OR AUTHORITY IS CHARGED WITH COLLECTING THE INFORMATION REFERRED TO IN SUB-PARAGRAPHS (B) (C) AND (D) OF THIS PARAGRAPH AND ENSURING THAT PUBLIC AND PRIVATE AGENCIES AND FACTORIES COMPLY WITH THE CONVENTION FROM ITS ENTRY INTO FORCE.

2. THE DECLARATION AND INFORMATION REFERRED TO IN SUB-PARAGRAPHS (A) TO (E) OF PARAGRAPH 1 SHALL BE COMMUNICATED TO THE DEPOSITARY (STATE (S)) UNTIL THE CONSULTATIVE COMMITTEE IS ESTABLISHED IN ACCORDANCE WITH ARTICLE VI AND THEREAFTER TO THAT COMMITTEE. THE DEPOSITARY (STATE (S)) OR THE COMMITTEE, AS THE CASE MAY BE, SHALL PROMPTLY CIRCULATE THE DECLARATION AND INFORMATION TO (ALL SIGNATORY AND ACCEDING STATES) (ALL STATES ENTITLED TO BECOME PARTY TO THE CONVENTION).

(COMMENT: THE INFORMATION REQUIRED BY ARTICLE II (D) WOULD HAVE TO BE SET OUT IN GREATER DETAIL. WE WOULD OBVIOUSLY HAVE TO TAKE INTO ACCOUNT THE VIEWS OF THE CHEMICAL INDUSTRY ON THIS QUESTION.)

ARTICLE III

EACH STATE PARTY TO THIS CONVENTION SHALL, IN ACCORDANCE
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WITH ITS CONSTITUTIONAL PROCESSES, TAKE ANY NECESSARY MEASURES TO PROHIBIT AND PREVENT THE DEVELOPMENT, PRODUCTION, STOCKPILING AND ACQUISITION OF THE CHEMICAL AGENTS SPECIFIED IN ARTICLE I OF THE CONVENTION WITHIN THE TERRITORY OF SUCH STATES, UNDER ITS JURISDICTION OR UNDER ITS CONTROL ANYWHERE.

ARTICLE IV

EACH STATE PARTY TO THIS CONVENTION UNDERTAKES NOT TO TRANSFER TO ANY RECIPIENT WHATSOEVER, DIRECTLY OR INDIRECTLY, AND NOT IN ANY WAY TO ASSIST, ENCOURAGE OR INDUCE ANY STATE, GROUP OF STATES OR INTERNATIONAL ORGANISATION TO MANUFACTURE OR OTHERWISE ACQUIRE ANY OF THE CHEMICAL AGENTS SPECIFIED, IN ARTICLE I OF THE CONVENTION.

ARTICLE V

EACH STATE PARTY TO THIS CONVENTION POSSESSING CHEMICAL AGENTS AND WEAPON STOCKPILES UNDERTAKES TO DESTROY OR CONVERT THEM TO PEACEFUL USES UNDER INTERNATIONAL OBSERVATION ACCORDING TO A PHASED PROGRAMME AGREED BY THE CONSULTATIVE COMMITTEE.

ARTICLE VI

STATES PARTIES TO THE CONVENTION UNDERTAKE TO ESTABLISH A CONSULTATIVE COMMITTEE FROM AMONGST THEMSELVES TO OVERSEE THE WORKING OF THE CONVENTION. THE FUNCTIONS OF THE COMMITTEE SHALL INCLUDE THE FOLLOWING:

- (1) TO ANALYSE AND EVALUATE PERIODIC REPORTS AND STATISTICAL AND OTHER INFORMATION SUBMITTED BY EACH STATE PARTY IN ACCORDANCE WITH THE PROVISION OF ARTICLE II(2), (3) AND (4);
- (2) TO REQUEST INFORMATION AND CONDUCT INQUIRIES IF ASKED TO DO SO BY A STATE PARTY;
- (3) TO VERIFY THE DESTRUCTION OF STOCKPILES AND TO CONDUCT OTHER INSPECTIONS IN ACCORDANCE WITH ARTICLE VII;
- (4) TO SEND NOTIFICATION AND REPORTS TO ALL STATES PARTIES FOLLOWING VERIFICATION PROCEDURES;
- (5) TO CONSULT AND CO-OPERATE WITH THE NATIONAL ORGANISATION OR AUTHORITY REFERRED TO IN ARTICLE II (E).

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INFO OCT-01 EUR-12 IO-13 ISO-00 ACDE-00 SS-15 NSC-05 PM-04

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FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 1032

INFO AMEMBASSY LONDON PRIORITY

C O N F I D E N T I A L SECTION 2 OF 3 GENEVA 5395

PACC TO ACDA (DON BLACK) FROM MIKULAK

(COMMENT: ALTERNATIVE TEXTS OF MORE ELABORATE ARRANGEMENTS FOR PERMANENT ENFORCEMENT MACHINERY CAN BE FOUND AT ANNEXES A, B AND C).

ARTICLE VII

EACH STATE PARTY TO THIS CONVENTION UNDERTAKES TO ACCEPT:

- (1) INSPECTION WITHIN 6 MONTHS OF THE CONVENTION COMING INTO FORCE BY PERSONS APPOINTED BY THE CONSULTATIVE COMMITTEE AS MEMBERS OF THE SECRETARIAT STAFF, OF THE PLANT FORMERLY PRODUCING CHEMICAL AGENTS TO ENSURE THAT IT HAD CEASED SUCH PRODUCTION, SUCH PERSONNEL TO BE ALLOWED ACCESS INTO THE BUILDINGS AND TO TAKE AIR, SOIL AND WATER SAMPLES FROM THE SURROUNDING AREA;
- (2) THE EMPLOYMENT AND PERIODIC INSPECTION OF TAMPER INDICATING SEALS ON THE DOORS CONTROL PANEL AND OTHER DESIGNATED LOCATIONS

OF FORMER MILITARY CHEMICAL-AGENT FACTORIES WHICH HAVE NOT BEEN DEMOLISHED OR CONVERTED TO PEACEFUL USES;
(3) UP TO TEN ON-SITE INSPECTIONS EACH YEAR BY THE PERSONS APPOINTED BY THE CONSULTATIVE COMMITTEE OF CHEMICAL FACTORIES TO BE SELECTED FROM THOSE LISTED UNDER PARAGRAPH (D) OF ARTICLE II OF THE CONVENTION. THE FACTORIES SHALL BE EXAMINED TO ENSURE THAT THEY ARE NOT PRODUCING CHEMICAL AGENTS.
THE INSPECTORS SHALL BE GIVEN SUCH ACCESS TO THE FACTORIES AS IS NECESSARY TO PERFORM THEIR TASK AND BE ALLOWED TO TAKE SUCH CONFIDENTIAL

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SAMPLES AS THEY MAY DEEM NECESSARY.
(4) IN THE CASE OF STATES POSSESSING THE CHEMICAL AGENTS DEFINED IN ARTICLE I, INSPECTION BY PERSONS APPOINTED BY THE CONSULTATIVE COMMITTEE WHO SHALL BE GIVEN SUCH ACCESS TO THE DESTRUCTION PROCESS AS THEY DEEM NECESSARY FOR THE TASK OF VERIFICATION.

ARTICLE VIII

STATES PARTIES TO THIS CONVENTION UNDERTAKE TO CONSULT ONE ANOTHER DIRECTLY OR THROUGH THE CONSULTATIVE COMMITTEE AND TO CO-OPERATE IN SOLVING ANY PROBLEMS WHICH MAY ARISE IN RELATION TO THE OBJECTS OF, OR IN THE APPLICATION OF THE PROVISIONS OF THE CONVENTION. ANY STATE PARTY WHICH SUSPECTS THAT ANY OTHER STATE PARTY IS ACTING IN BREACH OF OBLIGATIONS DERIVING FROM THE PROVISIONS OF THE CONVENTION MAY REQUEST DIRECTLY OR THROUGH THE CONSULTATIVE COMMITTEE THAT STATE PARTY TO PROVIDE EXPLANATION. IT MAY ALSO CALL FOR A SPECIAL INVESTIGATION WHICH MAY INVOLVE ON-SITE INSPECTION TO BE CARRIED OUT BY THE CONSULTATIVE COMMITTEE OR BY ITS SPECIALLY APPOINTED AGENTS.

ARTICLE IX

NOTHING IN THIS CONVENTION SHALL BE INTERPRETED AS IN ANY WAY LIMITING OR DETRACTING FROM THE OBLIGATIONS ASSUMED BY ANY STATE UNDER THE PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES AND OF BACTERIOLOGICAL METHODS OF WARFARE SIGNED AT GENEVA ON 17 JUNE 1925, OR UNDER THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS SIGNED IN APRIL 1972.

ARTICLE X

(Q) STATES PARTIES TO THIS CONVENTION UNDERTAKE TO FACILITATE, AND HAVE THE RIGHT TO PARTICIPATE IN, THE FULLEST POSSIBLE EXCHANGE OF EQUIPMENT, MATERIALS AND SCIENTIFIC AND TECHNOLOGICAL INFORMATION FOR THE USE OF CHEMICAL AGENTS FOR PEACEFUL PURPOSES. PARTIES TO THE CONVENTION IN A POSITION TO DO SO SHALL ALSO CO-OPERATE IN CONTRIBUTING INDIVIDUALLY OR TOGETHER WITH OTHER STATES OR INTERNATIONAL ORGANISATIONS TO THE FURTHER DEVELOPMENT AND APPLICATION OF SCIENTIFIC DISCOVERIES IN THE FIELD OF CHEMISTRY FOR PEACEFUL PURPOSES.

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(2) THIS CONVENTION SHALL BE IMPLEMENTED IN A MANNER DESIGNED TO AVOID HAMPERING THE ECONOMIC OR TECHNOLOGICAL DEVELOPMENT OF STATES PARTIES TO THE CONVENTION OR INTERNATIONAL CO-OPERATION IN THE FIELD OF PEACEFUL CHEMICAL ACTIVITIES.

ARTICLE XI

ANY STATE PARTY MAY PROPOSE AMENDMENTS TO THIS CONVENTION. AMENDMENTS SHALL ENTER INTO FORCE FOR EACH STATE PARTY ACCEPTING THE AMENDMENTS UPON THEIR ACCEPTANCE BY A MAJORITY OF THE STATES PARTIES, INCLUDING THE THREE DEPOSITARY POWERS, TO THE CONVENTION AND THEREAFTER FOR EACH REMAINING STATE PARTY ON THE DATE OF ACCEPTANCE BY IT OF THE AMENDMENTS.

ARTICLE XII

FIVE YEARS AFTER THE ENTRY INTO FORCE OF THIS CONVENTION, OR EARLIER IF IT IS REQUESTED BY A MAJORITY OF PARTIES TO THE CONVENTION BY SUBMITTING A PROPOSAL TO THIS EFFECT TO THE DEPOSITARY GOVERNMENTS, A CONFERENCE OF STATES PARTIES TO THE CONVENTION SHALL BE HELD AT GENEVA, SWITZERLAND, TO REVIEW THE OPERATION OF THE CONVENTION, WITH A VIEW TO ASSURING THAT THE PURPOSES OF THE PREAMBLE AND THE PROVISIONS OF THE CONVENTION ARE BEING REALISED. SUCH REVIEWS SHALL TAKE INTO ACCOUNT ANY NEW SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS RELEVANT TO THE CONVENTION.

(COMMENT: WE AGREE WITH US VIEW THAT, AS A RULE, THE UNITED NATION SECRETARY GENERAL SHOULD ACT AS DEPOSITARY FOR DISARMAMENT CONVENTIONS. HOWEVER HE HAS YET TO PERFORM THIS ROLE FOR ANY DISARMAMENT AGREEMENT (AND PRECEDENTS OF HUMAN RIGHTS AGREEMENTS ARE NOT ENCOURAGING); CW AGREEMENT WOULD NEED TO BE EFFECTIVELY ENFORCED; THE US AND SOVIET UNION ARE THE MAJOR POSSESSORS OF CW; THE UK HAS CONSIDERABLE EXPERTISE IN THE FIELD OF DEFENSIVE MEASURES AND HAS TAKEN A SUSTAINED INTEREST IN EFFECTIVE VERIFICATION; THIS EXPERIENCE COULD JUSTIFY THE RETENTION OF A TRIPLE DEPOSITARY SYSTEM FOR THE CW CONVENTION IN ACTING AS DEPOSITARIES; THE SOVIET UNION WOULD OBJECT TO THE UN ACTING AS DEPOSITARY. PENDING RESOLUTION OF DEPOSITARY QUESTION WE COULD LEAVE A
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BLANK FOR DEPOSITARY ARRANGEMENTS).

ARTICLE XIII

(1) THIS CONVENTION SHALL BE OPEN TO ALL STATES FOR SIGNATURE. ANY STATE WHICH DOES NOT SIGN THE CONVENTION

BEFORE ITS ENTRY INTO FORCE IN ACCORDANCE WITH PARAGRAPH 3
OF THIS ARTICLE MAY ACCEDE TO IT AT ANY TIME.

(2) THIS CONVENTION SHALL BE SUBJECT TO RATIFICATION
BY SIGNATORY STATES. INSTRUMENTS OF RATIFICATION AND
INSTRUMENTS OF ACCESSION SHALL BE DEPOSITED WITH THE
GOVERNMENTS OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND, THE UNION OF SOVIET SOCIALIST REPUBLICS
AND THE UNITED STATES OF AMERICA, WHICH ARE HEREBY
DESIGNATED THE DEPOSITARY GOVERNMENTS.

(3) THIS CONVENTION SHALL ENTER INTO FORCE AFTER
THE DEPOSIT OF INSTRUMENTS OF RATIFICATION BY TWENTY-TWO
GOVERNMENTS, INCLUDING THE GOVERNMENTS DESIGNATED AS
DEPOSITARIES OF THE CONVENTION.

(4) FOR STATES WHOSE INSTRUMENTS OF RATIFICATION OR
ACCESSION ARE DEPOSITED SUBSEQUENT TO THE ENTRY INTO FORCE
OF THIS CONVENTION, IT SHALL ENTER INTO FORCE ON THE DATE OF THE
DEPOSIT OF THEIR INSTRUMENTS OF RATIFICATION OR ACCESSION.

(5) THE DEPOSITARY GOVERNMENTS SHALL PROMPTLY INFORM
ALL SIGNATORY AND ACCEDING STATES OF THE DATE OF EACH
SIGNATURE, THE DATE OF DEPOSIT OF EACH INSTRUMENT OF
RATIFICATION OR OF ACCESSION AND THE DATE OF THE ENTRY INTO
FORCE OF THIS CONVENTION, AND OF THE RECEIPT OF OTHER NOTICES.

(6) THIS CONVENTION SHALL BE REGISTERED BY THE
DEPOSITARY GOVERNMENTS PURSUANT TO ARTICLE 102 OF THE CHARTER
OF THE UNITED NATIONS.

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<< END OF DOCUMENT >>

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